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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,759	09/30/2003	Nathanael F. Ehrich	RSW920030072US1	7793
7590 Gerald R. Woods IBM Corporation T81/062 PO Box 12195 Research Triangle Park, NC 27709			EXAMINER KUNAMNENI, HARI P	
			ART UNIT 2109	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/674,759

Applicant(s)

EHRICH ET AL.

Examiner

Hari Kunamneni

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>July 30, 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED OFFICE ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaffer et al (US6842768B1).

For claims 1 and 10:

A method (see title, "... METHOD ...", and system (see title, "APPARATUS...", apparatus is a system) of providing autonomic content load balancing (see column 7, lines 9-16, However, many connections will have an effective speed that can vary over time or that are not easily read from system parameters. This is especially true for dial-up connections, wireless connections, and very heavy-traffic network connections. In the case, a mechanism as indicated in FIG. 5 and as discussed in the above-referenced patent application, may be used to determine channel speed using a test packet.", determination of channel speed will effect the compression ratio as shown in FIG. 2, Steps A2, A3, and A4, which in turn effects load on the network, which is balancing of network load), comprising steps of:

defining a plurality of alternative versions of content to be served (FIG. 2, Steps A2, "Determine Channel Speed"; A3, "Access Transmit Time Indication for Original File"; and A4, "Determine Desired Compression Format"; combination of steps A2-4 will result in various compression formats), along with values of one or more conditions under which each of the alternative versions should be selected (FIG. 2, Step A5, "Access desired format", selection of different desired compression ratio is selection of various formats.);

receiving a request for the content (column 9, lines 40- , "a user to select a default download for a particular message, such as selecting a subject line", selecting the subject line is receiving the request);

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determining current values of the conditions (column 7, lines 13-16, "a mechanism as indicated in FIG.5 and as discussed in the above-referenced patent application, may be used to **determine channel speed** using a test packet", determining channel speed is determining current value of the network condition);

using the determined current values to select one of the alternative versions (as shown in FIG. 2, STEPS A2-5, channel speed determines access to desired format.); and

serving the selected version (column 9, lines 42, "default download", is serving the version), responsive to the request (column 9, lines 40-41 , "a user to select a default **download** for a particular message, such as **selecting a subject line**", downloading is serving the content in response to request, i.e. selecting the subject line).

For Claim 2:

The method according to Claim 1, wherein the alternative versions are different media types (see FIG. 6, different compression based on transfer time, meets applicants specification of media type defined on page 15, line 2, " ... less bandwidth").

For Claim 3:

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The method according to Claim 1, wherein the request is for a particular Web page (Column 9, lines 18-20, "In this example, each download time is underlined, indicating that it is a clickable link", which indicates that this user interface is a web page, which is further supported by FIG. 5, Item 240, Applet going from item 130a to item 100) and the selected content forms a portion of the particular Web page (see FIG. 6, fifth column, selected content is shown as transfer time with hyperlinks).

For claim 4:

The method according to Claim 1, wherein the request is for a particular Web page (Column 9, lines 18-20, "In this example, each download time is underlined, indicating that it is a clickable link", which indicates that this user interface is a web page, which is further supported by FIG. 5, Item 240, Applet going from item 130a to item 100) and the selected content comprises a version of the particular Web page (lines 39-45, "The interface may also include an option that allows a user to select a default download for a particular message, such as selecting the subject line, which will indicate to the invention that the invention should pick an appropriate compression for that message based on preset parameters", automatically picking an compression will present the user with a particular version of webpage.).

For claim 5:

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The method according to Claim 2, wherein the conditions pertain to system/network conditions (See FIG. 2, step A2, "Determine Channel Speed", determination of Channel Speed is network condition).

For claim 6:

A method of using dynamically selectable content versions, comprising steps of:

receiving a request for content having selectable versions (FIG. 2, step A1, "Receive connection from user", receiving connection from user is receiving a request);

identifying one or more conditions associated with the selectable versions (FIG. 2, step A3, "Access Transmit Time Indication for Original File", transit time is one condition associated with selectable version);

determining current values of the identified conditions (FIG. 2, Step A4, Determination of Desired Compression format is determination of current value) ;
and

using the determined current values to select from among the selectable versions (FIG. 2, Step A5, Access desired format is selecting a version of file) to create a response to the request (FIG. 2, Step A6, "Transmit Desired Format File or Message", transmission is the response to the request).

For claim 7:

The method according to Claim 6, wherein the request is for a Web page (Column 9, lines 18-20, "In this example, each download time is underlined, indicating that it is a clickable link", which indicates that this user interface is a web page) and the content with selectable versions comprises a portion of the Web page (see FIG. 6, fifth column, selected content is shown as transfer time with hyperlinks).

For claim 8:

The method according to Claim 7, wherein:

the Web page further comprises additional portions having selectable versions (see FIG. 6, see column TRANSFER TIME, with 3 selectable versions);

the identifying and determining steps are performed for each such additional portions (see claim 6 for this step); and

the using step uses the selected version of each of the portions when creating the response (see claim 6 for this step).

For claim 9:

The method according to Claim 6, wherein the conditions reflect a current load on system and/or network resources (See FIG. 2, step A2, "Determine Channel Speed", determination of Channel Speed is network condition) and the using step selects the selectable version in view of the

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current resource load (See FIG. 2, Step A5, "Access desired format", is selection of version based on Access Transmit Time Indication for Original File).

For claim 11:

The system according to Claim 10 (see supra for claim 10 discussion), wherein the means for determining current values further comprises means for obtaining measurements collected by an agent (See FIG. 5, item 140 and 150 in conjunction with column 7, para 3, that describes the agent that determines the channel speed).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer et al in view of Web publication of THE AUTOMATED DESIGN AND CODE WRITING SYSTEM (Pages 7-8).

Shaffer et al teaches everything (see claim 1 discussion for element coverage), except for using computer program instead of a method.

The general concept of implementing computer programming from a method (flow chart) is well known in the art as illustrated by Web publication of THE AUTOMATED DESIGN AND CODE WRITING SYSTEM (see page 7, a method, sample flow chart and corresponding code on page 8, THE C/C++ PROGRAM CODE)

It would have obvious for the person skilled in the art at the time of the invention to modify Shaffer et al method to computer program, in order to create a computer program as taught in THE AUTOMATED DESIGN AND CODE WRITING SYSTEM (See the conversion of flow chart (i.e. the method) to computer program as shown on page 8).

CONCLUSION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hari Kunamneni whose telephone number is (571)274-1592. The examiner can normally be reached on Monday thru Friday 7:30-5:00 PM alt. fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, FRANTZ JULES can be reached on (571)272-6681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

hpk
4/27/2007

FRANTZ JULES
SUPERVISORY PATENT EXAMINER

A handwritten signature in black ink, appearing to read 'Frantz', with a stylized flourish at the end.